

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

**LEAH HOCKER,**

Plaintiff,

v.

**No. CIV 6:07-cv-938 BB/DJS**

**JAMES SUTTON, COWETA TRUCKING,  
INC., and EMPIRE FIRE & MARINE  
INSURANCE COMPANY, a subsidiary  
of ZURICH INSURANCE COMPANY,  
a foreign corporation,**

Defendants.

Consolidated with

**JENNY BROWN, KEVIN BROWN, Individually  
and as Next Friend for GARRETT BROWN and  
MILES BROWN, minors,**

Plaintiffs,

v.

**No. CIV-1:08-cv-400 JCH/KBM**

**COWETA TRUCKING, INC., a foreign corporation,  
JAMES SUTTON, and EMPIRE FIRE &  
MARINE INSURANCE COMPANY,  
a subsidiary of ZURICH INSURANCE COMPANY,  
a foreign corporation,**

Defendants.

**RECOMMENDATION**

**THIS MATTER** comes before the Court upon the parties' Petition for Approval of a Minor

Settlement (Docket No. 70). On October 22, 2008 the Court held a hearing regarding the fairness and adequacy of the proposed settlement of this case. The Court heard presentations by Plaintiffs' counsel, Defendants' counsel, and the minor plaintiff's *Guardian Ad Litem*, Alysan Boothe Colins, Esq..

This case is a diversity action seeking damages for injuries incurred on March 3, 2005 on Interstate 40 in Albuquerque, New Mexico. Plaintiff Jenny Brown, individually and as next friend of her minor sons, Garrett Brown and Miles Brown, settled this action against Defendants. As part of that settlement, Defendants agreed to pay \$1,000.00 to each boy for all claims they might bring. Following the settlement, the parties sought appointment of the *Guardian Ad Litem* and approval of the settlement. Pursuant to this Court's Order (Docket No. 73) setting a hearing on the settlement, the *Guardian Ad Litem* filed her Report regarding her investigation of the settlement, the needs of the minor children, and the disposition of the funds. After further inquiry at the hearing, the Court hereby adopts the *Guardian Ad Litem*'s report.

The settlement for each child will be placed, in it's entirety, in an education savings account. The costs incurred in bringing this action and all attorneys' fees will be taken from Plaintiff Jenny Brown's settlement. The Court finds that the proposed settlement will result in a substantial sum being paid to the benefit of the minor children in light of their extremely limited injuries and their likely future needs. Upon review of the file and of the pleadings and in consideration of the *Guardian Ad Litem*'s experience, as well as the Court's experience and knowledge of legal fees in this district, this Court finds that the settlement is reasonable and in the children's best interest. The settlement will address the children's needs by providing money for their entry into adult life.

**IT IS THEREFORE RECOMMENDED** that the Court approve the terms of the settlement and enter an order approving the Petition (Docket No. 70) and dismissing Plaintiffs Jenny Brown,

Kevin Brown, Garrett Brown and Miles Brown.



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DON J. SVET  
UNITED STATES MAGISTRATE JUDGE